

STATE OF HAWAII

Respondent.

ORDER SUA SPONTE REMANDING
CASE FOR FURTHER PROCEEDINGS

Respondent.

Consolidated with
Docket No. 98-008-E-D-RET

ORDER SUA SPONTE REMANDING CASE FOR FURTHER PROCEEDINGS

The Hearings Examiner's Findings of Fact, Conclusions of Law and Recommended Order ("Recommended Order") was filed on May 28, 1999. The Recommended Order reserved the issues of the amount of 1) punitive damages, and 2) costs and attorneys' fees to be determined at a later hearing. The Recommended Order also granted

Complainant back pay and front pay but did not specify an amount.

A Recommended Order should resolve all disputed issues. This will enable the Commission to issue a Final Decision¹ after hearing oral argument and reviewing the Recommended Order, hearing record, written exceptions, and statements in support. H.A.R. §§ 12-46-53, 54, and 56. In this case, the Recommended Order reserved certain matters for a subsequent hearing and did not specify the amount of back pay and front pay. Because of these remaining issues, the Commission is sua sponte remanding the case back to the Hearings Examiner for further proceedings to be held as expeditiously as possible.² The parties need not file any exceptions to the Recommended Order at this time.

In future cases, if after the hearing is closed and further evidence is necessary to decide unresolved issues, the Hearings Examiner should reopen the hearing to take further evidence. H.A.R. § 12-46-49.

DATED: Honolulu, Hawaii June 3, 1999


HARRY YEE
CHAIR

¹Under the Administrative Procedures Act, a final order means "an order ending the proceedings, leaving nothing further to be accomplished." Gealon v. Keala, 60 Haw. 513, 520, 591 P.2d 621, 626 (1979). "Consequently, an order is not final if the rights of a party involved remain undermined or if the matter is retained for further action." Id." Bocalbos v. Kapiolani Medical Center, 89 Hawai'i 436, 439, 974 P.2d 1026 (1999).

²The Hearings Examiner will issue a Supplemental Recommended Order.